Mr GS Sandhawalia, Advocate.
Mr AS Jattana, Addl AG Punjab.

Heard.

The allegations against the petitioner are that he interpolated the order dated 20.1.2006 passed by the learned Additional Deputy Commissioner, Kapurthala in a dispute pending between the petitioner and one Surjit Singh Ahluwalia. The earlier order passed by the learned Additional Deputy Commissioner has been placed on record as Annexure P4. In terms of the said order, it was observed by the learned Additional Deputy Commissioner that Rapat No.45 dated 19.9.2005 filed by field Kanungo was declared as null and void and Surjit Singh Ahluwalia shall be deemed to be in possession of the disputed land till the stay order dated 26.9.2005 passed by the Additional Sessions Judge remained in force and till any other order is not passed by the said Court. In the subsequent order of the said date which has been placed on record as Annexure P6, it has been observed that Rapat No.45 dated 19.9.2006 filed by field Kanungo is hereby declared null and void and Tehsildar Kapurthala will remain Receiver at the disputed site till pendency of the stay order dated 26.9.2005 passed by Additional Sessions Judge and till any other order is passed by the said Court.

Learned counsel for the petitioner has contended that Surjit Singh Ahluwalia is the opposite party of the petitioner and, therefore, the interpolation as alleged against the petitioner vide order Annexure P4 does not in any manner benefit the petitioner. It is contended that in fact, the Additional Deputy Commissioner had merely corrected the mistake that had occurred in the order and instead of Tehsildar to remain in possession, she had wrongly recorded that Surjit Singh Ahluwalia shall remain in

possession. In any case, it is contended that the said order dated 9.9.2005 (Annexure P1) passed by the learned SDM Kapurthala in proceedings under Section 145 CrPC has been stayed by the learned Additional Sessions Judge, Kapurthala on 26.9.2005 (Annexure P2).

In response, learned counsel for the State has opposed the application. It is submitted that the petitioner has interpolated with the order and his custodial interrogation would be necessary to find out the actual circumstance.

After giving my thoughtful consideration to the matter, I am of the view that the petitioner does not get any benefit of the interpolations that are said to have been made. In fact, the benefit goes in favour of the opposite party i.e. Surjit Singh Ahluwalia. It appears that only a correction had been made by the learned Additional Deputy Commissioner, Kapurthala and instead of recording that Tehsildar Kapurthala, she had recorded that Surjit Singh Ahluwalia would remain in possession of the land.

In the circumstances, the interim order dated 14.9.2006 passed by this Court is made absolute and the petitioner, in the event of his arrest, shall be admitted to bail, subject to the provisions of Section 438 CrPC, on his furnishing personal bond and surety in the like amount to the satisfaction of arresting/investigating officer.

Nothing stated hereinbefore shall be construed as opinion on the merits of the case pending between the parties and the Court below shall decide the matter on the basis of material and evidence as adduced before it uninfluenced by any observations made hereinabove.

16.4.2007. (S.S.SARON)
ASR JUDGE